

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALICIA WILSON,

Plaintiff

v.

EZ EXIT NOW, LLC.,

Defendants

§
§
§
§
§
§
§
§
§
§

C.A. NO. 4:18-cv-03673

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Defendant EZ EXIT NOW, LLC and files this its Answer to the Original Class Complaint (hereinafter referred to as "Complaint"):

DEFENDANTS' ORIGINAL ANSWER

Pursuant to Federal Rule of Civil Procedure 8(b), Defendants respond to the allegations in each corresponding paragraph of the Complaint as follows:

I.
SUMMARY

Defendants deny the allegations contained within the Complaint.

II. NATURE OF THE CASE

1. The allegations of paragraph 1 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

2. The allegations of paragraph 2 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

3. The allegations of paragraph 3 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

III JURISDICTION AND VENUE

4. The allegations of paragraph 6 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

5. The allegations of paragraph 7 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

6. The allegations of paragraph 8 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

7. The allegations of paragraph 9 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

8. The allegations of paragraph 10 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

9. The allegations of paragraph 11 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

10. The allegations of paragraph 12 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

IV. PARTIES

11. The allegations of paragraph 4 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

12. The allegations of paragraph 5 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

V.
NATURE OF THE CASE

13. The allegations of paragraph 1 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

14. The allegations of paragraph 2 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

15. The allegations of paragraph 3 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

16. The allegations of paragraph 8 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

17. The allegations of paragraph 9 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

18. The allegations of paragraph 10 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

19. The allegations of paragraph 11 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

20. The allegations of paragraph 12 of the Complaint require no answer of Defendants but to the extent that they require an answer, Defendants deny those allegations.

**VI.
STATEMENT OF FACTS**

- 21. Defendants deny the allegations of paragraph 13.
- 22. Defendants deny the allegations of paragraph 14.
- 23. Defendants deny the allegations of paragraph 15.
- 24. Defendants deny the allegations of paragraph 16.
- 25. Defendants deny the allegations of paragraph 17.
- 26. Defendants deny the allegations of paragraph 18.
- 27. Defendants deny the allegations of paragraph 19.

**V.
'COUNT NO. 1: RACE AND GENDER DISCRIMINATION PURSUANT
TO TITLE VII OF THE CIVIL RIGHTS ACT AND 42 U.S.C. 1981**

- 28. Defendants deny the allegations of paragraph 20.
- 29. Defendants deny the allegations of paragraph 21.
- 30. Defendants deny the allegations of paragraph 22.
- 31. Defendants deny the allegations of paragraph 23.
- 32. Defendants deny the allegations of paragraph 24.

**IX
ATTORNEY'S FEES AND COSTS**

- 33. Defendants are requesting their attorney's fees and costs incurred herein.

X.
AFFIRMATIVE DEFENSES

First Affirmative Defense

1. The Complaint fails to state a claim upon which relief may be granted.

Second Affirmative Defense

2. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitation.

Third Affirmative Defense

3. Defendant invoke the defenses, protection and limitations of the Fair Labor Standards Act, 29 U.S. §201.

Fourth Affirmative Defense

4. The Defendant states that the Plaintiff's claims should be dismissed to the extent that they were not set forth in his administrative charge. See 42 U.S.C.A. § 2000e et seq

Fifth Affirmative Defense

5. At all times, Defendants acted in good faith and had reasonable grounds for believing their actions were in compliance with the all federal and state discrimination laws in regard to their employees,

Sixth Affirmative Defense

6. The Defendant affirmatively asserts that it engaged in good faith efforts to comply with the law. See *Kolstad v. Americall Delltal Ass'II*, 527 U.S. 526 (1999).

Seventh Affirmative Defense

7. Plaintiff's claims are barred because Plaintiff failed to show for work her first day of work when she was terminated. She was then allowed to return but upon return she stated she was only there interviewing for the position.

Eighteenth Affirmative Defense

8. Defendant never met Plaintiff at any time and did not know of her race and/or ethnicity.

Nineteenth Affirmative Defense

9. Plaintiff voluntarily left the employment of Defendant, walking out any notice, and did not return or communicate with Defendant after she left.

XI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant prays that its answer be deemed good and sufficient and all claims by Plaintiff against Defendant be dismissed, with prejudice, and such other and further relief, legal and equitable, including attorney's fees, be awarded Defendant.

Respectfully submitted,

**COLLEEN M. MCCLURE
ATTORNEY AT LAW**

By: /s/ Colleen M. McClure
COLLEEN M. MCCLURE

Texas bar No. 24012121
4201 Cypress Creek Parkway, Suite 565
Houston, Texas, 77068
Tel. (281) 440-1625
Fax. (281) 956-4657
colleen.mcclure@att.net

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that November 7, 2018 a true and correct copy of the above Answer was served to opposing counsel by efilng.

/s/ Colleen M. McClure

Colleen M. McClure